

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS (Case Nos. 06-23,24,25,26)
SUDBURY BOARD OF SELECTMEN (SP-06-382)
SEPTEMBER, 28, 2006

For the Board of Appeals:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Jonathan G. Gossels
Constantine Athanas
Nancy G. Rubenstein, Alternate

For the Selectmen:

William J. Keller, Chairman
John C. Drobinski, Vice Chairman
Lawrence O'Brien

Also: Jody Kablack, Planning Director
Ronald Desrosiers, MDM Transportation Consultants

For the Applicant:

Attorney Joshua M. Fox
Frederick Tierney, Richard Glasheen, Foreign Motors West
Bruce Ey, Schofield Brother
Brian Biesel, Traffic Consultant

Mr. Richmond, ZBA Chairman, noted that these proceedings are a continuation of the Board of Appeals' public Hearing for Case Nos. 06-23,24,25,26 and a continuation of the Board of Selectmen's public hearing for Site Plan SP-06-382.

Ms. Kablack read from her statement the following new correspondence received since the June 29, 2006 joint Public Hearing:

- Memo dated June 30, 2006 from Attorney Dennis Brown, representing William C. Roberts, owner of property at 120 Boston Post Road with a Public Information Law request to produce documents from the file
- Executed Request for Extension from the applicant to September 30, 2006 for the Selectmen's Site Plan Application
- Email message dated July 6, 2006 from Planning Director to Selectmen and ZBA with Statement of Work seeking services of an independent traffic consultant
- Responses to Statement of Work
- Memo dated July 21, 2006 notifying MDM Transportation Consultants of ZBA decision to contract them for services
- Memo from Design Review Board dated September 14, 2006 with regard to building location, landscaping, pavement and signage
- Memo dated September 21, 2006 from MDM Transportation with review and recommendations
- Revised plan prepared by Schofield Brothers dated September 20, 2006
- Site Plan Decision extension to November 10, 2006 unless it is mutually agreed to further extend

In terms of focus, Mr. Keller felt traffic was the primary purpose for scheduling this evening. His hope was to work that through as much as possible and arrive at a resolution.

Mr. Richmond added that the ZBA's focus was not on costs but with the public safety aspect. He would like to devote this evening to traffic.

Mr. Fox said in addition to traffic, they have also submitted lighting plans and landscape plans, and with an eye towards the future would like consensus as to how the order is going to go with respect to those matters – as to whether the ZBA wants to look at those preliminarily and then defer to the Selectmen. He did not want to be in the middle of two boards going back and forth.

Mr. Gossels said with the Land Rover project the ZBA deferred to the Selectmen's site plan and ZBA issues didn't get resolved. He said this Board had concerns with regard to landscaping and pitch of the vehicle storage lot. He was reluctant to simply defer.

Mr. O'Brien said the Selectmen tried to balance the concerns of the ZBA, the Conservation Commission and the Selectmen's vision.

Mr. Richmond said part of the problem is that there is going to be some overlap in terms of jurisdiction, and both boards should discuss those areas up front in order to understand what they are. He said the ZBA wants to be sure that their concerns are either addressed in the ZBA's decision or the site plan.

Mr. Keller said the Selectmen will be sure to address them in site plan.

Ron Desrosiers, MDM Transportation Consultants, said he has been working on this project since August and there were a couple of meetings with the applicant and Town Planner relative to the documents submitted. As a result of the peer review of the traffic study, memos and site plans, MDM developed a memorandum and in that memorandum are a series of points which deal with the proposed development in the study area consisting of trip generation, background traffic, accidents - all the relevant items one would typically look at for a new project.

He said most of the issues are items that the applicant is currently working on to address. There are issues that need clarification but ones he felt will not be a stumbling block in terms of getting the project approved. The biggest issue revolves around what is considered to be the appropriate geometry in the reconfiguration of the Old County Road/Boston Post Road intersection.

Mr. Desrosiers presented two plans for discussion. He said the first is basically a rendering of the concept plan that was originally developed by the applicant. He described that plan which retains the existing roadway alignment on Old County Road and realigns it to Boston Post Road. It also includes a left turn lane which is something that Mass. Highway was looking for in this project. Mr. Desrosiers said he reviewed that geometry, had conversations with the

applicant and spoke with Mass. Highway, and came up with a concept plan which he felt is more appropriate for safety and traffic operation at the intersection.

From the MDM plan, Mr. Desrosiers described the proposed reconfiguration which realigns the turn lanes and includes a raised island and scored concrete rumble strip which he said defines the approach on the intersection. Also described were the proposed turn lanes and the mechanics of those turns.

With this plan, MDM is recommending that the roadway be realigned partially on the property being proposed for the BMW dealership and realigned so that as it comes into Boston Post Road, it facilitates that movement and makes the turns easier.

Mr. Desrosiers felt this plan to be more appropriate over the plan originally proposed by the applicant because the alignment of the road is more fluid. It gives the driver an expectation of traveling down the road and the feel that he's going to come to a stop in more of a normal fashion. The alignment also allows for placement of signs and pavement markings. It allows for a separate right turn lane from Old County Road. One of the major features is the raised island which provides a separation between the left turn approach lane and the departure lane onto Old County Road.

Mr. Richmond asked how many cars can be stacked there. Mr. Desrosiers felt there was enough room for three cars. He said another feature of this plan is that it provides a loading area in back for the Sky Restaurant where trucks can actually pull in to make deliveries.

Mr. Keller asked for comments on the proximity of Sky's driveway – the one closest to Old County Road.

Mr. Desrosiers said there has been some concern expressed by the owner and the manager of the restaurant about the proximity of the intersection being closer to that driveway. He didn't share that concern to the extent they believe it's going to be an issue. He said he went there this evening and sat there as if he was entering the traffic stream and pulled into the area which is actually the approach lane to get a feel for how it would be relative to that driveway. There were a few patrons that came out of the restaurant and made a right turn there. He just had to wait for the next gap to make that movement and didn't feel it to be critical at all.

Mr. O'Brien asked about the illumination in that space.

Mr. Desrosiers said it would obviously help to have some illumination. Further discussion followed on the amount of lighting needed and where it could be located.

Mr. Gossels asked how much this reconfiguration would encroach on the property.

Mr. Desrosiers pointed out the area on the plan noting that there is about 15 feet to the edge of the pavement from the existing property line.

With regard to the setback of the building, Mr. Ey said it is 43 feet from the overhang, but on that one corner it would go to about 26 or 27 feet at the tightest spot. He felt he could live with that aspect but would have to adjust the landscaping and the site plan to accommodate this.

Mr. Richmond asked what the delays would be at peak hours.

Brian Biesel said with MDM's configuration, the right turns would operate much better. Instead of being Level F left and right turns, the right turns are still an F in the morning but much better. Although they are still an F, they're much lower. They used to be over 100; now they're just over the 60-100 range.

Mr. Richmond felt this plan was a significant improvement. He said not only is there an exclusive lane on Route 20 but there are separate lanes on Old County Road. He liked the idea of the raised strip in between.

Mr. Klofft asked how much impact would there be to limit the left turn lane during rush hours so that no one would be allowed to take a left turn during the peak hours.

Mr. Biesel said signage could be tried; however, it becomes an enforcement issue.

Mr. Desrosiers said he would discourage this. He said although there's a delay in making that left turn, it's a public road and a lot of people use it. If restricted, motorists are just going to end up on another road and come down another way onto Route 20 and exacerbate that problem.

Mr. O'Brien asked whether MDM made changes to the length of the Route 20 configuration from Plan A to Plan B.

Mr. Desrosiers said the MDM plan was built from discussions with the applicant and Mass. Highway. Mass. Highway had some comments relative to what they'd like to see for lighting arrangements, shoulder widths and general configuration. He would say it was extended another 100-150 feet for a smooth transition.

Mr. Richmond asked what it would take in terms of approvals from Mass. Highway to get a plan like this built.

Mr. Desrosiers said if both boards were to condition this project upon a particular design, they would have to go to Mass. Highway. The applicant would have to prepare a design that meets all state requirements, go through a preliminary design review, then go through a final design review, and then they would get a highway access permit to actually do the work on state highway.

In response to a question from Mr. O'Brien as to the time frame, Mr. Desrosiers estimated it would be about a 4-month process.

Mr. Richmond asked the applicants for comments on the MDM plan.

Mr. Fox said there are a couple of hitches with that plan. He said part of Old County Road goes onto their property which can be handled in one of three ways: the applicant can grant an easement, a voluntary grant of deed, or a taking, either of which they are willing to go along with in this case. He said if the MDM proposal is what it takes to get this approved and keep the project moving, that is what they'll do.

With regard to giving up some land, Mr. Fox said extrapolating per square foot value based on what they're paying comes out to about \$75-100K of land that is being given up.

In addition, Mr. Fox said the total cost is an unknown for the project. The amount that Land Rover contributed for off-site mitigation was \$13K. The project was obviously smaller, but the Bosse project the off-site mitigation cost was about \$83-85K – a project of similar scale. Plan A, the first plan, that the applicant came forward with was probably somewhere in the range of \$100K. He felt with MDM's Plan B the costs would double at a minimum. He said that's a lot of money for the applicants, and while they are willing to do that, they need to know when the spending is going to stop.

Mr. Fox said the applicant is proposing a contribution to the town of \$250K which would cover all off-site mitigation whether it relates to this project or otherwise. If this project goes less than \$250K, the town can use the money for any other off-site mitigation. If it goes over \$250K, that would not be the responsibility of Foreign Motors West.

Mr. Richmond asked whether Mr. Fox was saying that MDM's plan is acceptable but rather than pricing, the applicant just wants to give some money and let the town decide.

Mr. Fox said it would be the applicants' preference for the town to manage the project. He felt the town is going to end up deferring to the Planning Board staff and Town Engineer and if it is their strong preference that the applicant manage this particular project, we can do so – but it is not our preference. He said what they do need to know is that there is a cap on the contribution amount. – a fair amount.

Mr. Richmond appreciated that it's a lot of money but didn't see it as a contribution. He said what the boards have seen is the safety concern and the number of trips that this facility would be adding to a very congested roadway. He said he was looking at this from the perspective of what it takes to get the Board comfortable and satisfy the safety concerns. Therefore, the offer of a capped amount may help resolve and pay for what is necessary; however, he felt that from the Board's perspective, the safety issue needs to be resolved at whatever the cost.

Mr. Fox asked the boards to keep in mind that this is a 47,000 s.f. office park, and if this project doesn't go forward, it's going to be a vibrant 47,000 s.f. office park at some point as of right without any improvements to the Boston Post Road/Old County Road intersection – without any money to the town, but with cars in that area. He felt BMW was solving an existing problem. He said while this project would add additional trips to that intersection, they would be

solving an existing problem which has to be solved right now. He said the applicant will agree to take on the lion's share of that work and if it's less than \$250K, they will give the balance to the town for other off-site mitigation. But to ask them to assume an unknown amount at this point in time is unfair.

Mr. Klofft questioned why it is an unknown given that there is a design.

Mr. Ey said one of the unknowns is what they will find when the intersection is dug up. He said it's not just the repaving – the roadbed has to be replaced and he doesn't know what's underneath.

At Mr. Drobinski's request, the catch basin was pointed out. Mr. Ey said it's right on the edge of the way and piped down to Bosse Sports. He said it may be a simple thing to put a manhole in that location – in that case it would be approximately \$6K worth of drainage. However, he couldn't estimate drainage at this point. He could add up everything else and felt that barring a severe problem with the drainage, \$250K will cover it.

Mr. Desroisiers said he didn't necessarily share Mr. Ey's comments, but said under either scenario a portion of the roadway is going to be reconstructed, so that cost is pretty much fixed under either one.

Mr. O'Brien asked whether the Route 20 portion involved a lot of engineering or just resurfacing and restriping.

Mr. Desrosiers said it will definitely involve engineering, but this will be a minimal resurface project – not a full dug construction. He did not believe it would be a difficult project, but would be in the \$200K range.

Mr. Desrosiers said he would discourage the town from taking this on project. He would rather see it be with the applicant only because as a private developer the project will get done a lot sooner. If it were tied to building occupancy, he would estimate it to involve about six weeks worth of work.

Mr. Drobinski noted that the town would have to go out for bid and it would be more expensive.

Mr. Athanas asked how traffic is handled during the road construction. Mr. Desrosiers said there would be police officers at both ends of the construction zone and work would typically start at 9AM after the peak rush has gone through and they would just alternate traffic in both directions with the police officer patrol. There will be disruption on that roadway but, depending upon how aggressively the town wants to be, traffic could also be detoured onto some other roadways for a couple of days.

Mr. Gossels asked if this was an opportunity to put the utilities underground.

Mr. Desrosiers said it is very expensive – costs to underground typically run about \$500/foot.

Mr. Klofft asked Mr. Ey whether he would not have the same concerns with drainage and the roadbed with either plan.

Mr. Ey said with Plan B, the project is larger. It will involve putting in a raised island, wider pavement and a wider intersection. There will be three lanes and more drainage may be needed.

Mr. O'Brien asked who would have jurisdiction of the drainage.

Mr. Ey said jurisdiction would be with Mass. Highway because it goes into their drainage system and the Conservation Commission because it leads to a wetland. He did not anticipate problems with either one.

Mr. Desrosiers said Mass. Highway will be looking for a copy of the Order of Conditions and whatever approvals are granted by this Board because they don't like to issue a highway access permit if the documentation isn't in place.

Mr. Ey voiced concern that if occupancy of the building is tied to having all the work completed and they run into a problem getting the poles moved.

Mr. Richmond asked for the construction timetable. Mr. Ey said it's a one-year project.

Mr. Richmond felt that if it takes a couple of months to get a permit from Mass. Highway, it seems unlikely that in the course of nine months the poles can't get moved.

Mr. O'Brien asked how much of Plan B could conceivably be completed and functionally usable without NStar moving the poles.

Mr. Desrosiers wasn't sure. He pointed out the poles involved noting where necessary one could temporarily stripe around one or two and place barrels to protect others. His personal opinion was that all of them could be worked around if necessary.

Mr. Gossels noted that at the last hearing there was discussion about an island that the car carriers and tractor trailers could drive over.

Mr. Ey said a raised island was proposed because without going outside of the right of way large trucks could not make the radius. Their proposal was for an island that was raised about 3 inches so that a large vehicle could mount and go over it at times in the same way as the westerly entrance at Sudbury Farms. Cars can go out there, but when a truck goes through there it has to go over the island. With Plan B, large trucks can turn without going over the island.

Mr. Desrosiers said it would be a raised island about 6 inches, but it would be far more visible; as you come down the roadway you would see that island. The original one would be more difficult to see. His biggest concern was that he would not want motorists to be making a sling shot movement. It forces them to stay in the left turn lane and then turn at a much slower speed.

Mr. O'Brien asked how many cars could stack up in the left hand turn lane only on Route 20.

Mr. Desrosiers felt it would be close to nine vehicles.

Mr. Biesel said Mass. Highway was pleased with the left turn lanes as well as the taper lanes.

Ms. Rubenstein asked whether trucks will still only be allowed to enter from the westbound side.

Mr. Ey said they would because they still might have problems with the BMW car carriers. However, the delivery trucks for Sky Restaurant should have no problem.

Mr. O'Brien felt that Plan B addresses a lot of concerns of both Boards adding that the raised island is a key feature because regardless of Plan A or Plan B, the sling shot is eliminated and the turn becomes a normal move.

Mr. Desrosiers said a sign can be placed on the raised island that says "keep right". It makes the intersection much more visible to the driver coming down Route 20 making that movement.

Mr. O'Brien would like suggestions as to the best location is for a street light.

Mr. Desrosiers said this can be coordinated with the DPW.

Mr. Keller asked whether there was a sense of a percentage of how much the traffic will increase.

Mr. Desrosiers said he asked the applicant for that additional information and asked for actual trip generation so he could do a comparison for a BMW dealership. They're in the process of doing that. He said the information might change a little but didn't think it would change his mitigation recommendations.

Ms. Kablack asked Mr. Biesel whether he gave those figures from his counts.

Mr. Biesel said he did. However, he hasn't yet done Saturday counts. He said the AM/PM peak came out to be right about where ITE is for new car sales – about 100 trips per

hour for both. The count was for the BMW/Mercedes facility on route 27 in Natick which is comparable in size.

Mr. Biesel said when he did the count at Land Rover after it was open, he found AM and PM were equal and found Saturdays to be 31% lower during AM and PM peak hours. The count at the BMW/Mercedes in Natick were found to be equal to each other. When he does the Saturday count he was hoping that it'll be much lower than what ITE says.

Fred Tierney said the difference is caused by the service business. He said hopefully there will be more sales on the weekend and a decrease in service requirements.

In response to a question regarding service hours, Mr. Tierney anticipated service will be open six days. Saturday is a full day but has a skeleton crew on that day.

Mr. Richmond asked for comments from the audience.

Steve Corcoran, owner of Sky Restaurant originally had three concerns – one was the accessibility to his delivery area in back which is off of Old County Road. He was satisfied with Plan B which provides for paving right up to his delivery area and felt it will work out well. In addition, he wanted to be sure, from what was discussed about drainage this evening, that whatever work regarding drainage is done, that Sky be included in that.

Mr. Corcoran still had concerns regarding the painted taper on Route 20 – the crosshatch and striping that would go in front of his entrance and exits, which to him implies a barrier to take a left to enter or exit the restaurant. He said he knows legally that it is permitted, but as a driver, when he sees crosshatch marks, it says don't cross.

Mr. Desrosiers said he removed the cross hatch on Plan B. There will still be a defined island by a yellow center line, but there won't be the cross hatch lines.

Mr. Corcoran said as long as he can be sure customers will be able to enter and exit, he will be satisfied.

Mr. Athanas asked what the concern was for making a left at the second entrance.

Mr. Corcoran said if people have been there before, it's different, but for new customers, he didn't want to find out. He said it's been working out for nine years and he's not willing to risk it. It's more of a concern for the exit because the way the parking spots are angled in front of the building points you towards that exit. And if you want to head eastbound on Route 20, you have to cross over that taper. He wanted to be sure that as this project goes along that something doesn't come up later to restrict entry and exit.

The other area is moving the intersection closer to the Sky entrance/exit. Mr. Corcoran said it looks like the intersection will be 20 feet closer to the Sky property line. Although it looks like that intersection could be made safer by creating that 90 degree angle and eliminating

that slingshot, he believed that exiting the Sky parking lot will be made more hazardous because it will be closer to that traffic that's turning onto Old County Road.

Mr. O'Brien did not feel this would be the case. He felt that although the vehicle making a left turn onto Old County Road will be closer, it will be more visible. With the current conditions one may not look enough down the road to know that a motorist is planning on cutting through onto Old County Road.

Mr. Klofft agreed, adding that the island will naturally slow traffic making a left there. He felt with this configuration the speeds will be much slower.

Mr. Richmond wanted to know whether the applicant was willing to implement Plan B.

Mr. Fox said they are prepared to look at it after this meeting if there is consensus between both boards. They are willing to offer \$250K towards offsite mitigation. As stated previously, they do not anticipate any problems with the Conservation Commission – the concern is with the condition of the road bed and pipes.

Mr. Desrosiers felt that unless there is a blockage or failure, he doesn't see a problem with Mass. Highway.

Ms. Kablack said the only issue that she can see is that if a cap is put on and the intersection is \$300K, the town needs to come up with the excess money.

Mr. Richmond wanted to make it clear that the ZBA is not interested in a cap – it is interested in ensuring that the safety improvements are made at the intersection.

To be clear on that, Mr. Fox would suggest that the town go back and look at the numbers and get some estimates to see if the applicants can work with them. What he was asking for this evening was a determination this evening that the juxtaposition of the building and pavement is satisfactory and that they are not going to receive a request from another agent of the town for other improvements.

Mr. Gossels said there was talk in the past about a contribution towards a traffic study. Personally, he would be comfortable with taking that contribution off the table since the applicant would be shouldering the full cost of this infrastructure.

Ms. Kablack agreed.

Mr. Gossels said he has a concern with swinging the road closer to the building because that landscaping is lost. At the next meeting, he would like to see something be given as to how the applicant would landscape to mitigate this. He would like to see more softening.

Ms. Kablack suggested a blow-up of that corner to see where a sign fits and where the landscaping fits.

Mr. Fox said he will go back to the Design Review Board with landscape plans and then come back to the ZBA.

Mr. O'Brien asked whether both boards collectively agreed with Plan B as the design of choice. There was agreement.

Discussion followed on costs. Mr. Ey said the costs are certainly between \$200-250K, but they need to add up all of the costs.

Mr. Keller said he would like some more specific numbers on costs adding that he would like to have the ability to not require \$250K if it can be done for less.

Mr. Richmond said the ZBA is not going to look at the costs. If it can be built for less than \$250K that would be great; if it costs more, that is at the applicant's risk. He would like the applicants to figure out whether it can go with Plan B. As to costs, those should be discussed with the Selectmen as they are outside of the ZBA's realm.

Mr. O'Brien asked whether there was a preferred way to deal with the realignment of Old County Road.

Mr. Fox felt the preferred way was either by easement or deed.

Mr. Richmond felt the next step from the ZBA's perspective was for the applicant to revise its plan to reflect the new plan, go before the DRB for the landscaping and configuration of the sign and then come back to the ZBA.

The ZBA hearing was continued to October 17, 2007.

The Selectmen's Site Plan hearing was continued to October 24, 2007.

BOARD OF APPEALS:

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

Jonathan G. Gossels

Constantine Athanas

Nancy G. Rubenstein, Associate

